



**DEPARTMENT OF THE NAVY**  
SOUTHWEST DIVISION  
NAVAL FACILITIES ENGINEERING COMMAND  
1220 PACIFIC HIGHWAY  
SAN DIEGO, CA 92132-5190

M60050.002839  
MCAS EL TORO  
SSIC NO. 5090.3

5090  
Ser 06CC.DG/0263  
March 15, 2002

Ms. Nicole Moutoux  
U.S. Environmental Protection Agency, Region IX  
Hazardous Waste Management Division (SFD 8-2)  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Dear Ms. Moutoux:

Subj: ADDITIONAL LANGUAGE FOR MCAS EL TORO ROD FOR IR SITES 18 AND 24

As discussed in our teleconference on Tuesday, 12 March 2002, we are providing as enclosure (1) draft revisions of three sections of the MCAS El Toro Record of Decision for Sites 18 and 24. These revisions explain the institutional controls that will be used to ensure that the public is prevented from domestic use of untreated groundwater from the VOC plumes at Sites 18 and 24. The revisions are intended to provide sufficient detail about the nature of the institutional controls for these sites that a separate Land Use Control Implementation and Certification Plan will not be necessary.

Section 8.1.2.3 has been revised to identify two local agencies – Orange County Health Care Agency (OCHCA) and Irvine Ranch Water District (IRWD) – that have the authority to issue permits for well construction in the area of the VOC groundwater plume. Copies of the enabling regulations, County requirements for well permits and a sample permit are provided as enclosures (2)-(5). Section 8.1.2.3 also describes how off-Station land-use restrictions will be monitored and reported. The Navy is currently working with OCHCA and IRWD to obtain assurance that any conditions necessary to ensure adequate protection of public health shall be included in any permits that they issue.

Section 8.2.2.2 has been revised to provide additional detail about the deed restrictions that will be placed on the on-Station property overlying the VOC plume in the shallow groundwater unit, including land-use control objectives and actual land-use restriction language that is intended to be placed in the Quitclaim Deed(s) transferring the subject property.

Section 8.2.2.3 defines how the on-Station institutional controls will be incorporated into and implemented through two separate legal instruments: one or more Covenant Agreements with DTSC and RWQCB; and one or more Quitclaim Deeds between the transferee and the DON. This section also describes how the on-Station land-use restrictions will be monitored and reported.

It is also important to note that, in addition to the institutional controls described in the Record of Decision, several factors make domestic use of untreated contaminated groundwater at MCAS El Toro infeasible:

- A local public water supply is readily available. This, coupled with the high visibility that the groundwater contamination has received in the community through public meetings, public mailings, and newspaper articles, makes it extremely unlikely that

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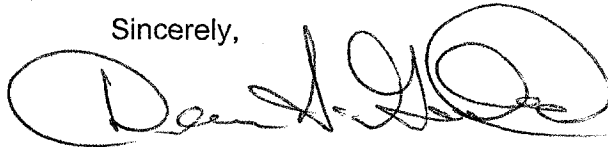
an individual homeowner or small group of homeowners would construct a private well intended for drinking water purposes.

- Operators of larger public water systems (serving at least 25 yearlong residents) must apply for and obtain a permit from the Department of Health Services (California Health and Safety Code Section 116525). The operators of these systems must comply with state and federal water quality standards, including MCLs, set forth in Cal. Code Regs. Tit. 22 and the federal Safe Drinking Water Act.
- High concentrations of inorganics, primarily TDS and nitrates, in both the shallow groundwater unit and principal aquifer would make treatment necessary prior to domestic use of the water. The cost of and necessity for pre-treatment would be expected to deter an individual homeowner or group of homeowners from constructing a private well intended for drinking water purposes.

To expedite the incorporation of your comments into the draft final Record of Decision, please submit your comments on the proposed revisions to me via email at [goulda@efdsd.navfac.navy.mil](mailto:goulda@efdsd.navfac.navy.mil) by 25 March 2002 if possible.

We appreciate the opportunity to work with U.S. EPA on this issue. Should you have any questions, please contact Ms. Content Arnold at (619) 532-0970 or myself at (619) 532-0765.

Sincerely,



DEAN A. GOULD  
Base Realignment and Closure  
Environmental Coordinator  
By direction of the Commander

- Enclosures:
1. Revisions to Sections 8.1.2.3, 8.2.2.2, and 8.2.2.3 of the draft Record of Decision for MCAS El Toro Sites 18 and 24
  2. Orange County Code Article 2, Construction and Abandonment of Water Wells
  3. Irvine Ranch Water District Rules and Regulations Section 16, Water Wells
  4. County of Orange Health Care Agency, Requirements for Well Permits
  5. Orange County Health Care Agency Environmental Health Division, Application for Well Construction Permit

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MCAS EL TORO  
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DRAFT RECORD OF DECISION FOR THE  
REGIONAL VOLATILE ORGANIC COMPOUND  
GROUNDWATER PLUME AND THE VOLATILE  
ORGANIC COMPOUND SOURCE AREA

DATED JANUARY 2002

IS ENTERED IN THE DATABASE AND FILED AT  
ADMINISTRATIVE RECORD NO. **M60050.002596**

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### 8.1.2.3 INSTITUTIONAL CONTROLS

Institutional controls for the off-station portion of the groundwater plume are intended to protect residents from inadvertent use of VOC-contaminated groundwater for domestic purposes until cleanup goals are achieved in the principal aquifer. The institutional controls for the off-station portion of the VOC groundwater plume are based upon local permit programs administered by two local governmental agencies regulating the installation and use of new groundwater extraction wells. The off station VOC groundwater plume lies within the jurisdictional areas of these two local permit programs.

The Orange County Health Care Agency (OCHCA) requires that any person planning to construct a water well must apply for and obtain from the OCHCA a permit for construction of such well and authorizes OCHCA to include any necessary conditions in such permit to ensure adequate protection of public health (Orange County Code; Article 2. Construction and Abandonment of Water Wells). The Irvine Ranch Water District (IRWD) also requires a permit for construction of water wells and authorizes IRWD to include any necessary conditions in such permits to ensure adequate protection of public health (IRWD Rules and Regulations; Section 16. Water Wells).

The Navy is seeking written assurance from OCHCA and IRWD that they shall ensure that any conditions that are necessary to ensure adequate protection of public health (e.g., treatment to comply with Federal and state drinking water standards) shall be included in any permits that they issue for construction of wells intended to be used for domestic drinking water supply. The Navy has also received commitments by OCHCA and IRWD to provide the Navy with copies of any well permit applications received or permits issued within the geographic scope of the off-station groundwater plume exceeding Federal and State MCLs (the "footprint") until remediation of the plume has been completed. **((DON NOTE: This is our current strategy. However, there is no guarantee that written assurance will be forthcoming in a timely manner. In the absence of this written documentation, it is still understood that these local agencies have the authorities as described.))**

The Navy has provided a map to OCHCA and IRWD which delineates the off-station groundwater plume footprint. The Navy shall provide to OCHCA and IRWD updated copies of the map every year beginning on the date of issuance of this ROD and ending when remediation of the plume has been completed.

### **Land-Use Restriction Monitoring and Reporting**

The OHCA and IRWD shall have the lead in ensuring that appropriate permits are obtained for construction of new water wells in the VOC groundwater plume and taking any necessary enforcement action ensure that such permits are obtained and complied with. The Navy shall provide USEPA, DTSC, and the RWQCB with copies of permit applications and permits that it has received from OCHCA and IRWD.

### **8.2.2.2 INSTITUTIONAL CONTROLS**

Institutional controls in the form of land-use restrictions will be used to limit the exposure of future landowner(s) and/or user(s) of the property to hazardous substances and to maintain the integrity of the remedial action. Monitoring and inspections will be conducted to assure that the land use restrictions are being followed. Land-use control objectives to be achieved through the land-use restrictions include: —

- preventing the use of contaminated groundwater for domestic purposes until cleanup objectives have been achieved.
- protecting the groundwater extraction, conveyance, and groundwater monitoring equipment.

Institutional controls will also be used to assure access to the site by the DON and regulatory agencies to assure monitoring and maintenance of the final remedy is properly conducted. Land use restrictions will be applied to the property and included in the Finding of Suitability to Transfer (FOST), Covenant Agreement(s) between DON and DTSC, and any Quitclaim Deeds conveying real property containing the Site 24 Shallow Groundwater Plume.

#### *Land Use Restrictions on Property Above the Site 24 Shallow Groundwater Plume*

1. No groundwater shall be extracted and no new groundwater wells shall be installed within the Site 24 groundwater plume without prior review and written approval from the DON, DTSC, RWQCB, and other regulatory agencies that have jurisdiction over the proposed activity. The transferee shall also obtain permits for such wells as required by OCHCA and IRWD as described in Section 8.1.2.3.
2. Extraction wells, monitoring wells, and associated piping and equipment installed during the remedial action phase before or after conveyance shall not be altered, disturbed, or removed without the prior review and written approval from the DON, DTSC, RWQCB, and other regulatory agencies that have jurisdiction over the proposed activity.

### *Additional Specific Requirements*

The DON will also include the following specific requirements in the FOST, Covenant Agreement(s), and Quitclaim Deed(s):

- the transferee and future transferees must comply with all terms and conditions relating to land-use restrictions set forth in this ROD,
- the transferee and future transferees must notify subsequent future transferees of all land-use restrictions and access provisions set forth herein, and
- the transferee must notify the DON, DTSC, RWQCB, and other regulatory agencies that have jurisdiction over the property containing the groundwater plume, extraction wells, monitoring wells, and associated piping and equipment of any transfer of all or a portion of that property by the transferee not later than 30 days after the conveyance.

### **8.2.2.3 IMPLEMENTATION OF INSTITUTIONAL CONTROLS**

The on-station land-use restrictions set forth in this ROD will be incorporated into and implemented through two separate legal instruments: 1) one or more Covenant Agreements with DTSC and RWQCB addressing on-station real property containing the Site 24 Shallow Groundwater Plume and 2) one or more Quitclaim Deeds between transferee(s) and the DON conveying on-station real property containing the Site 24 Shallow Groundwater Plume. The Covenant Agreement(s) will incorporate the land use restrictions into restrictive covenants that run with the land and that are enforceable by DTSC against future transferees. The Deed(s) will include the identical land-use restrictions in environmental restrictive covenants that run with the land and that will be enforceable by the DON against future transferees. In essence, the DON, DTSC, and RWQCB will each have the legal authority to enforce the land-use restrictions and will share responsibility for their enforcement

### **Environmental Restriction Covenant and Agreement, The "covenant" (Chapters 6.5 and 6.8 of Division 20 of the California Health and Safety Code [Cal. Health & Safety Code] and California Civil Code [Cal. Civ. Code] § 1471)**

The DON, DTSC, and RWQCB shall enter into good-faith negotiations to enter into Covenant Agreement(s) pursuant to the substantive requirements of Cal. Health & Safety Code Division (div.) 20 Chapters (chs.) 6.5 and 6.8 and California Civil Code (Cal. Civ. Code) §1471 regarding environmental land-use restrictions, restrictive covenants, and access provisions. The Covenant Agreement(s) will be consistent with and serve as a mechanism to implement the restrictions set forth in Section 8.2.2.2 of this ROD in accordance with DON

policy. Once the Covenant Agreement(s) is finalized, it will be executed contemporaneously with the negotiation and execution of a Quitclaim Deed for conveyance of the property pursuant to the Defense Base Closure and Realignment Act of 1990, 10 United States Code (U.S.C.) §2687.

The Covenant Agreement(s) will be executed by the DON on behalf of the United States, and will serve as a legally binding agreement between the United States and its successor and assigns (the covenantor) and the DTSC and RWQCB and their successors and assigns, who shall be identified in the Covenant Agreement(s) as the covenantees, pursuant to Cal. Civ. Code § 1471. The Covenant Agreement(s) will provide for access as set forth in Section 8.2.2.2 of this ROD. The Covenant Agreement(s) will include the legal description of the property overlying the on-station Site 24 shallow groundwater plume and the location of extraction and monitoring wells and associated pipelines and equipment required for the remedial action. The Covenant Agreement(s) will be binding upon all future owners until legally terminated; that is, it will run with the land. The Covenant Agreement(s) will include information summarizing the remedial actions at Site 24 and provisions for terminating or modifying the Covenant Agreement(s) when cleanup levels established in this ROD have been achieved and the remedial equipment has been removed. The Covenant Agreement(s) will be recorded by DTSC in the office of the county recorder for the County of Orange.

### **ENVIRONMENTAL RESTRICTIVE COVENANTS IN THE QUITCLAIM DEED (CALIFORNIA CIVIL CODE SECTION 1471)**

Pursuant to Cal. Civ. Code § 1471, the DON shall include in the Quitclaim - Deed(s) between the United States and the transferee(s) the same land-use restrictions and equivalent access provisions that are set forth in Section 8.2.2.2 of this ROD and the Covenant Agreement(s). All such provisions shall use the language contained herein.

The Deed(s) will include the legal description of the property overlying the Site 24 shallow groundwater plume and extraction and monitoring wells and associated equipment required for the remedial action. The land-use restrictions and access provisions in the Deed(s) will be binding upon all future owners until legally terminated; that is, they will run with the land. The Deed(s) will include information summarizing the remedial actions at Site 24 and provisions for terminating or modifying the restrictive covenants in the Deed(s) when cleanup levels established in this ROD have been achieved and the remedial equipment has been removed.

The DON would provide DTSC with a copy of the relevant language for the proposed Deed for DTSC's review and comment in connection with DTSC's review of the FOST or FOSET documents, as appropriate. The scope of DTSC's review of the deed would be to evaluate whether the use restrictions set forth in

Section 8.2.2.2 of this ROD have been incorporated into the deed language in accordance with DON's commitments in the ROD. The Deed will be recorded in the office of the county recorder for the County of Orange. A copy of the recorded deed will be provided to DTSC following recordation.

### **Land-Use Restriction Monitoring and Reporting**

The OHCA and IRWD shall have the lead in ensuring that appropriate permits are obtained for construction of new water wells in the VOC groundwater plume and taking any necessary enforcement action ensure that such permits are obtained and complied with. The Navy shall provide USEPA, DTSC, and the RWQCB with copies of permit applications and permits that it has received from OCHCA and IRWD.

The DON shall monitor and inspect the status of compliance with the land use restrictions in Covenant Agreement(s) and Quitclaim Deed(s) protecting on-station extraction wells, monitoring wells, and associated piping and equipment concurrently with inspections of such engineering controls and equipment as provided in the Operations and Maintenance Plan.

If a violation of such on-station land-use restriction is identified and/or documented by either the DON, DTSC, or the RWQCB, the entity identifying the violation will notify the others within ten (10) working days of identifying the violation. The DON, USEPA, DTSC, and RWQCB shall then consult to determine what, if any, action(s) should be taken, which of them shall undertake the action(s), and when it/they shall be undertaken. The results of such a consultation shall be memorialized in letters of agreement.



## ARTICLE 2. CONSTRUCTION AND ABANDONMENT OF WATER WELLS

### 4-5-14. Purpose.

It is the purpose of this article to control the construction and reconstruction of wells to the end that the groundwater of this County shall not be impaired in quality and that water obtained from such wells will be suitable for the purpose for which used and will not jeopardize the health, safety or welfare of the people of this County, and to provide for the destruction of abandoned wells or wells found to be public nuisances to the end that such wells shall not impair the quality of groundwater or otherwise jeopardize the health, safety or welfare of the people of this County. (Ord. No. 107, § 1, 7-18-72)

### 4-5-15. Definitions.

As used in this article, the following words shall have the meanings provided in this section:

**Abandoned and abandonment.** The terms "abandoned" or "abandonment" shall apply to a well which has not been used for a period of one year, unless the owner declares in writing to the Well Standards Advisory Board, his intention to use the well again for supplying water or other associated purpose (such as an observation well or injection well) and receives approval of such declaration from the Board. Such declarations shall be renewed annually and at such time be resubmitted to the Board for approval. Test holes and exploratory holes shall be considered abandoned twenty-four (24) hours after construction work has been completed, unless otherwise approved by the Health Officer.

**Agricultural well.** A water well used to supply water for irrigation or other agricultural purposes, including so-called stock wells.

**Cathodic protection well.** Any artificial excavation in excess of fifty (50) feet constructed by any method for the purpose of installing equipment or facilities for the protection, electrically, of metallic equipment in contact with the ground, commonly referred to as a cathodic protection well or a deep anode.

**Community water supply well.** A water well used to supply water for domestic purposes in systems subject to chapter 7 of part I of division 5 of the California Health and Safety Code.

**Construct, reconstruct (construction, reconstruction).** To dig, drive, bore, drill or deepen a well, or to re-perforate, remove, replace or extend a well casing.

**Destruction.** The proper filling and sealing of a well that is no longer useful so as to assure that the groundwater is protected and to eliminate a potential physical hazard.

**Electrical grounding well.** Any artificial excavation in excess of fifty (50) feet constructed by any method for the purpose of establishing an electrical ground.

**Health Officer.** The Orange County Health Officer or his designee.

**Individual domestic well.** A water well used to supply water for domestic needs of an individual residence or commercial establishment.

**Industrial well.** A water well used to supply an industry on an individual basis.

**Observation well.** A well used for monitoring or sampling the conditions of a water-bearing aquifer, such as water pressure, depth, movement or quality.

**Permit.** A written permit issued by the Health Officer permitting the construction, reconstruction, destruction or abandonment of a well.

**Person.** Any person, firm, corporation or governmental agency.

**Public nuisance.** The term "public nuisance," when applied to a well, shall mean any well which threatens to impair the quality of groundwater or otherwise jeopardize the health or safety of the public.

**Saltwater (hydraulic) barrier well.** A well used for extracting water from or injecting water into the underground as a means of preventing the intrusion of saltwater into a fresh water-bearing aquifer.

**Test or exploratory hole.** An excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic investigation, direct observation or any other means.

**Well.** Any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into the underground, for providing cathodic protection or electrical grounding of equipment, for making tests or observations of underground conditions, or for any other similar purpose. Wells shall include, but shall not be limited to, community water supply wells, individual domestic wells, industrial wells, agricultural wells, cathodic protection wells, electrical grounding wells, test and exploratory holes, observation wells and saltwater (hydraulic) barrier wells, as defined herein, and other wells whose regulation is necessary to fulfill the purpose of this article as determined by the Well Standards Advisory Board. Wells shall not include:

- (a) Oil and gas wells, geothermal wells or other wells constructed under the jurisdiction of the State Department of Conservation, except those wells converted to use as water wells;
- (b) Wells used for the purpose of dewatering excavations during construction, or stabilizing hillsides or earth embankments; or
- (c) Other wells whose regulation is not necessary to fulfill the purpose of this article as determined by the Well Standards Advisory Board. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-16. Well Standards Advisory Board.

A board consisting of five (5) members shall be appointed by the Board of Supervisors. One of the members appointed shall be a person employed in a supervisory capacity by a water purveyor in the County of Orange whose system relies to a significant extent upon groundwater; one shall be a registered civil engineer under the laws of the State of California who is experienced in sanitary engineering and who is qualified in the field of water supply; one shall be a person licensed in accordance with the provisions of the Contractors License Law, chapter 9, division 3 of the Business and Professions Code of the State of California; one shall be a person who is qualified in the field of water quality; and one shall be a regis-

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tered geologist under the laws of the State of California who is qualified in the field of groundwater hydrology. One of the aforementioned persons shall be a representative of the Orange County Water District and one shall represent the Orange County Water Pollution Department.

Members shall serve for a three-year term and until the qualification of a successor, except that the first members shall serve staggered terms, as determined by the drawing of lots, in the following manner: One member shall serve for a one-year term of office; two (2) members shall serve for a three-year term of office. All terms shall end on the first Monday in January of the year in which such term is to expire. All members shall serve at the discretion of the Board of Supervisors; and any member or members of the Board, Committee or Commission may have his membership terminated by a majority vote of the Board of Supervisors. A vacancy thereby created shall be filled in the same manner as the original appointment.

Traveling and other expenses incurred by each Board member in the performance of his official duties shall be reimbursed at a rate of ten dollars (\$10.00) per meeting. (Ord. No. 2607, § 1, 7-18-72; Ord. No. 3038, § 3, 2-14-78)

#### Sec. 4-5-17. Acts prohibited; permit required.

No person shall, within the unincorporated area of the County of Orange, construct or reconstruct any well unless such construction or reconstruction is carried out pursuant to and in conformance with a written permit issued for that purpose by the Health Officer as provided in this article.

Nor shall any such person abandon a well unless it has been destroyed pursuant to and in conformance with a written permit issued by the Health Officer.

Nor shall any such person violate the terms of any order issued by the Well Standards Advisory Board or the Health Officer, issued pursuant to this article. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-18. Permits.

Applications for permits shall be made to the Health Officer containing such information as he shall require.

Each application shall be accompanied by a fee which shall be established by the Board of Supervisors on the basis of the cost incurred in enforcing the provisions of this article. Fifty (50) per cent of the fee shall be returned to the applicant should the permit be denied or if the permit is canceled within sixty (60) days after issuance and no work has been done. A permit shall remain in effect for one year from date of issuance.

Permits may be issued subject to any condition or requirement found by the Health Officer to be necessary to accomplish the purposes of this article.

A permit may be canceled or the conditions amended by the Health Officer if he determines that to proceed with the work would result in a public nuisance or the permit holder has violated the terms of the permit or this article. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-19. Completion of work.

The permittee shall notify the Health Officer in writing upon completion of the work and no work shall be deemed to have been completed until such written notification has been received. A final inspection of the work shall be made by the Health Officer and no permittee shall be deemed to have complied with this article or his permit until such inspection has been performed. (Ord. No. 2607, § 1, 7-18-72)

#### Secs. 4-5-20—4-5-24. Reserved.

#### Sec. 4-5-25. Notice; cancellation or denial of permit.

In the event a permit is denied or canceled, the applicant or permit holder shall be given written notice by the Health Officer, which notice shall specify the reasons for his action and shall notify the applicant or permit holder of his right to request a hearing before the Well Standards Advisory Board within ten (10) days. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-26. Notice; public nuisance.

In the event the Health Officer determines that a well constitutes a public nuisance, he shall mail a written notice to the landowner and the permit holder, if other than the landowner. A copy of the notice shall be posted

on the affected property. The notice shall state the specific facts giving rise to such nuisance; the corrective measures deemed necessary; and time, date and place at which a hearing shall be held by the Well Standards Advisory Board relating thereto, which date shall be not less than ten (10) nor more than thirty (30) days after the date such notice is mailed. The notice shall state that in the event the Board determines that a public nuisance exists a special assessment shall be imposed upon the land for any costs of abatement. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-27. Immediate abatement.

If the Health Officer finds that immediate action is necessary to prevent impairment of the groundwater or a threat to the health or safety of the public, he may abate the nuisance without giving notice. Within twenty-four (24) hours after initiating such abatement, the Health Officer shall give notice of a hearing before the Well Standards Advisory Board in the manner prescribed in section 4-5-26. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-28. Board hearing.

At the time fixed for the hearing, the Well Standards Advisory Board shall hear and consider all relevant testimony and evidence offered by the landowner, and by any other interested person. In the event the Board finds that a public nuisance exists, it shall direct the Health Officer to take any necessary action to protect the groundwater or the health and safety of the public, unless the situation is corrected by the landowner on or before a date to be specified by the Board. The costs of such corrective work by the Health Officer shall become a special assessment upon the land pursuant to section 4-5-29.

If the Board finds that a permit was improperly denied or canceled, it shall order the Health Officer to issue or reinstate such permit. (Ord. No. 2607, § 1, 7-18-72)

#### Sec. 4-5-29. Abatement costs a special assessment.

Upon a finding by the Well Standards Advisory Board that a well constitutes a public nuisance, all cost of abatement carried out under the terms of this article shall constitute a charge and special assessment upon the parcel of land involved. If such costs are not paid

within sixty (60) days, they shall then be declared a special assessment against that parcel as provided in Government Code, section 25845. Such special assessment shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary County taxes. The County shall retain the additional and independent right to recover its costs by way of civil action against the owner and person in possession or control, jointly or severally. (Ord. No. 2607, § 1, 7-18-72)

**Sec. 4-5-30. Standards.**

Standards for the construction, reconstruction, destruction, or abandonment of wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74, Chapter II and future amendments thereto. Standards for the construction, reconstruction, destruction or abandonment of cathodic protection wells and electrical grounding wells shall be the standards recommended in the State De-

partment of Water Resources Bulletin No. 74-1, and future amendments thereto. Well standards may be modified by the Health Officer, with the advice and concurrence of the Well Standards Advisory Board, where required to cope with the local geological and groundwater conditions. (Ord. No. 2607, § 1, 7-18-72; Ord. No. 2691, § 1, 7-17-73)

**Sec. 4-5-31. Penalty.**

Any person who violates the terms of this article or any permit issued hereunder shall be guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued or permitted and shall be subject to the same punishment as for the original offense. (Ord. No. 2607, § 1, 7-18-72)

## IRVINE RANCH WATER DISTRICT

## SEC

WATER WELLS

## 16.1 GENERAL

The District has an important interest, along with other appropriate regulatory agencies, in monitoring the groundwater basin located within its boundaries to obtain information as to its quantity, quality and other characteristics on an historical and ongoing basis. Many wells have been constructed and operated within the District for agricultural purposes by private users. From time to time, due to increasing urbanization, some of these wells are no longer needed as production wells. The purpose of this section is to regulate the construction and reconstruction of all existing and future water wells, to provide for the destruction or other use of abandoned wells, and to provide for the initiation and completion of corrective measures relative to wells within the District, to accomplish the following:

- (1) To protect the quality of the groundwater within the District;
- (2) To protect the health, safety, and welfare of the residents of the District;
- (3) To protect the capability of the District to produce and distribute water for the use, benefit and protection of the residents of the District;
- (4) To avoid premature destruction of wells that can be converted to monitoring or production use.

## 16.2 DEFINITIONS

- (1) "Destruction" of a well means the complete filling and sealing of the well in accordance with the procedures outlined in the standards incorporated into this Section.
- (2) "Well" means any excavation constructed by any method for the purpose of extracting water from or injecting water into the underground, for providing cathodic protection or electrical grounding of equipment, for making tests or observations of underground conditions, or for any other similar purpose. Wells shall include, but shall not be limited to, community water supply wells, individual domestic wells, industrial wells, agricultural wells, cathodic protection wells,

## IRVINE RANCH WATER DISTRICT

electrical grounding wells, test and exploratory holes, observation wells, saltwater barrier wells, and other wells whose regulation is necessary to fulfill the purpose of this chapter as determined by the Manager. Wells shall not include:

- [a] Oil and gas wells, geothermal wells, or other wells constructed under the jurisdiction of the State Department of Conservation, except any such wells converted to use as water wells;
  - [b] Wells used for the purpose of dewatering excavations during construction, monitoring high groundwater during construction, monitoring or ascertaining the existence of groundwater contamination, or stabilizing hillsides or earth embankments; or
  - [c] Wells less than 50 feet in depth or 6 inches in diameter.
  - [d] Other wells whose regulation is not necessary to fulfill the purpose of this chapter as determined by the Manager.
- (3) A well shall be presumed to be "abandoned" when it has not been used for its intended purpose for a period of one year.

### 16.3 PROHIBITED ACTS -- PERMITS REQUIRED

- (1) No person, firm, or private or public corporation or agency shall construct or reconstruct any well within the boundaries of the District unless such construction or reconstruction is carried out pursuant to and in conformance with a written permit issued for that purpose by the Manager as provided in this Section.
- (2) No owner or operator of an existing well shall allow it to remain in an unused condition except in accordance with Section 16.4. An used well determined to be abandoned shall be destroyed pursuant to and in conformity with the requirements of the District as set forth in this Section unless the Manager determines that the District desires to acquire and equip the well for monitoring or production purposes.

### 16.4 UNUSED WELLS - - DETERMINATION OF NONABANDONMENT

- (1) If a well has not been used for any of the purposes set forth in the definition of "well" for a period of one year, such well shall be presumed to have been

## IRVINE RANCH WATER DISTRICT

abandoned, and the burden of proof shall thereupon be upon the owner or operator of the well to establish to the satisfaction of the Manager that the well has not been abandoned and that the owner and operator intends to continue to use the well for the intended purposes. The Manager shall require a written declaration under penalty of perjury concerning intended future use to be filed by the owner or operator of the well before the Manager determines that the well has not been abandoned. Application for the renewal of a determination of nonabandonment shall be required to be presented to the Manager by the owner or operator at the beginning of each calendar year. Such renewal applications shall be accompanied by a new written declaration filed under penalty of perjury. Test holes and exploratory holes shall be considered abandoned twenty-four hours after construction work has been completed unless otherwise determined by the Manager.

- (2) In the event the Manager determines that a well is indeed abandoned, unless the Manager determines that the District desires to acquire and equip the well for monitoring or production purposes, the well shall be destroyed within thirty days in accordance with the provisions of this chapter. However, the owner shall be given written notice of this determination by the Manager. The notice shall specify the reasons for this decision and shall notify the owner of his right to request a hearing before the Board of Directors within ten days.

### 16.5 PERMITS

- (1) Applications for permits to construct, reconstruct, or destroy any well shall be made to the Manager and shall contain or provide such information as he shall require.
- (2) Each application shall be accompanied by a fee which shall be established by the Board of Directors. A permit shall remain in effect for one year from the date of issuance.
- (3) Permits may be issued subject to any condition or requirement found by the Manager to be necessary to accomplish the purposes of this chapter.
- (4) A permit may be canceled or the conditions amended by the Manager if he determines that to proceed with the work would result in a violation of the terms of the permit or of this Section.

## IRVINE RANCH WATER DISTRICT

- (5) In the event that a permit is denied or canceled, the applicant or permit holder shall be given written notice by the Manager, which notice shall specify the reasons for his action, and shall notify the applicant or permit holder of his right to request a hearing before the Board of Directors within ten days.

### 16.6 COMPLETION OF WORK -- NOTICE TO MANAGER -- INSPECTION

The permittee shall notify the Manager in writing upon completion of the work performed under the permit, and no work shall be deemed to have been completed until such written notification has been received. A final inspection of the work shall be made by the Manager, and no permittee shall be deemed to have complied with the provisions of this chapter of his permit until such inspection has been performed and the work approved by the Manager.

### 16.7 NOTICE UPON DETERMINATION OF THREAT TO WATER QUALITY, HEALTH OR SAFETY

In the event the Manager determines that a well threatens to impair the quality of the groundwater or otherwise jeopardize the health or safety of the public, he shall send written notice to the owner and shall post a copy of the notice on the property. The notice shall state the specific facts relative to the condition, the corrective measures deemed necessary, and the date on or before which such measure shall be completed. The owner shall also be notified of his right to request a hearing before the Board of Directors within thirty days from the date such notice is issued.

### 16.8 IMMEDIATE ABATEMENT OF THREAT TO WATER QUALITY, HEALTH OR SAFETY

If the Manager finds that immediate action is necessary to prevent impairment of the groundwater or a threat to the health or safety of the public he may correct the condition without giving notice. The District may charge the cost of the corrective measure to the owner. However, within twenty-four hours after initiating such corrective measure, the Manager shall notify the owner of the time, date and place at which a hearing shall be held by the Board of Directors relating thereto; which date shall be not less than ten nor more than thirty days after the date of such notification.



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### 16.9 BOARD OF DIRECTORS HEARING

- (1) At the time fixed for a hearing before the Board of Directors concerning an abandoned well, a permit, or a threat to water quality, health or safety, as provided for in this chapter, the Board of Directors shall hear and consider all relevant testimony and evidence offered by the property owner and by any other interested person.
- (2) If the Board of Directors determines that an unused well was incorrectly classified as abandoned or that a permit was improperly denied or canceled, it shall direct the Manager to reclassify the well or to issue or reinstate the permit.
- (3) If the Board of Directors finds that a threat to water quality, health or safety, as determined by the Manager, does exist, then it shall direct the Manager to take any necessary action to protect the groundwater or the health and safety of the public unless the situation is corrected by the owner on or before a date to be specified by the Board of Directors. The cost of such corrective measures by the Manager shall be charged to the owner or operator.
- (4) In instances where the Manager has corrected a condition under the immediate correction provision of Section 16.8, the Board of Directors shall ascertain and review the pertinent facts concerning the correction. If the Board of Directors determines that the Manager's actions were justified, then it shall direct that the cost be charged to the owner or operator.

### 16.10 STANDARDS FOR CONSTRUCTION, RECONSTRUCTION OR DESTRUCTION

Standards for the construction, reconstruction, or destruction of wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74, Chapter II, and future amendments thereto. Standards for the construction, reconstruction, or destruction of cathodic protection wells shall be the standards recommended in the State Department of Water Resources Bulletin No. 74-1, and future amendments thereto.

### 16.11 VIOLATION -- PENALTY

Any violation or failure to comply with any of the provisions of this Section shall be handled as provided in

## IRVINE RANCH WATER DISTRICT

herein and shall also be subject to Section 14 as applicable.

### 16.12 AGREEMENTS

The District may enter into agreements with property owners concerning the drilling or abandonment of wells and/or other matters covered in this Section, and providing for alternate or modified methods of meeting certain of the requirements contained herein. In such cases, the agreement(s) will govern as to the applicability of the affected requirements, in the area(s) subject to such agreements.

### 16.13 NO LIABILITY ASSUMED

Notwithstanding the provisions of this Section permitting or requiring the District or Manager to issue permits, make determinations and/or take corrective measures relative to construction, reconstruction abandonment and destruction of wells and quality of groundwater, the District assumes no liability to the property owners or operators of wells or any third parties, for the making of or failure to make any such determination, or the taking of or failure to take any such measure, or the issuing of or failure to issue any such permit.

RRE00016



# COUNTY OF ORANGE HEALTH CARE AGENCY

## REGULATORY HEALTH SERVICES ENVIRONMENTAL HEALTH

MICHAEL SCHUMACHER, Ph.D.  
DIRECTOR

MIKE SPURGEON  
DEPUTY AGENCY DIRECTOR  
REGULATORY HEALTH SERVICES

JACK MILLER, REHS  
DIRECTOR  
ENVIRONMENTAL HEALTH

MAILING ADDRESS:  
2009 EAST EDINGER AVENUE  
SANTA ANA, CA 92705-4720

TELEPHONE: (714) 667-3600  
FAX: (714) 972-0749

E-MAIL: environhealth@hca.co.orange.ca.us

**SUBJECT: County Requirements for Well Permits**

Dear Consultant/Contractor/Driller:

The Orange County Well Ordinance (County Ordinance No. 2607) requires that a permit be obtained prior to the construction or destruction of any well. In unincorporated County areas and in twenty-six of thirty-one Orange County cities, the Orange County Health Officer is responsible for enforcement of the well ordinance. In the remaining five cities (Anaheim, Buena Park, Fountain Valley, Orange and San Clemente), well ordinances are enforced by city personnel.

Permits are specifically required for all wells and soil borings except:

1. Vadose zone monitoring systems which are regulated by the administrative authority for enforcement of the Underground Storage Tank Laws and Regulations.
2. Wells used for the purpose of dewatering excavations during construction, or stabilizing hillsides or earth embankments.
3. Soil borings which meet all of the following conditions:
  - a) less than 50 feet in depth;
  - b) do not enter into groundwater;
  - c) do not penetrate significant confining material beds.

To expedite the permit approval process, all the necessary attachments and applicable fees should be submitted with the permit application. The required attachments include a site plan showing the locations of all wells (proposed and existing), potential sanitary hazards and a well construction diagram. The diagram should include, at a minimum, materials of construction, depth of seals, borehole diameter, size of casing, depth to first groundwater and total depth of wells.

A permit shall remain in effect for one year from date of issuance.

**PERMIT APPLICATION FEES** (as of 8-1-99)

**CONSTRUCTION**

**Fee**

Water Well (Domestic, Irrigation or Industrial) \$467.00

Cathodic Protection Well \$398.00

Monitoring, Observation, Extraction or Injection  
Well, or Soil Boring

Initial (First) Well \$260.00

Each Additional (same permit number, same site) \$132.00

Probe Surveys \$260.00

**DESTRUCTION**

All Wells (each) \$83.00

**REFUND AND LATE LEES**

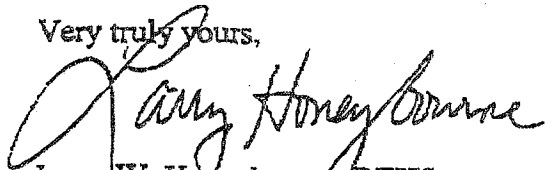
In the event the permit is denied or if the permit is canceled within sixty (60) days after issuance and no work has been performed, fifty percent (50%) of the fee shall be returned to the applicant. To avoid a twenty-five percent (25%) late charge, applicants are required to file for and receive approved permits prior to initiation of construction. Permit fees are not transferable between sites.

The County requires notification of at least forty-eight hours (48 hrs.) prior to beginning construction. Completion reports and well logs must be submitted to this Agency upon completion of work. The completion report should include the permit number, total number of wells, installed, location of wells, and as built details of well construction (e.g., depth of seals, perforation intervals, and groundwater depth).

Failure to comply with any condition of an approved permit or any aforementioned requirement is a violation of the Orange County Well Ordinance and a misdemeanor.

If you have any questions or wish to obtain a well permit application or information, please fee free to contact the County of Orange Health Care Agency, Water Quality Section at (714) 667-3657 or 667-3758.

Very truly yours,



Larry W. Honeybourne, REHS  
Environmental Health Engineering Specialist  
Water Quality Section  
Environmental Health

LWH:dap

## APPLICATION FOR WELL CONSTRUCTION PERMIT

ORANGE COUNTY HEALTH CARE AGENCY  
ENVIRONMENTAL HEALTH DIVISION2009 E. EDINGER AVENUE  
SANTA ANA, CA 92705-4720(714) 667-3600  
FAX: (714) 972-0749

CITY _____		DATE _____		
WELL LOCATION (ADDRESS IF AVAILABLE)				
NAME OF WELL OWNER		<b>TYPE OF WELL (CHECK)</b>  PRIVATE DOMESTIC <input type="checkbox"/> MONITORING <input type="checkbox"/> PUBLIC DOMESTIC <input type="checkbox"/> SOIL BORING <input type="checkbox"/> IRRIGATION <input type="checkbox"/> OTHER _____ <input type="checkbox"/> CATHODIC <input type="checkbox"/> TOTAL NUMBER _____  A. WELLS - SUBMIT A WELL CONSTRUCTION DIAGRAM (INCLUDE DIMENSIONS)  B. SOIL BORINGS AND PROBES - TOTAL DEPTH _____ SEALING MATERIAL _____  C. PROPOSED START DATE _____		
ADDRESS				
CITY	ZIP			TELEPHONE
NAME OF CONSULTING FIRM				
BUSINESS ADDRESS				
CITY	ZIP	TELEPHONE	I hereby agree to comply in every respect with all requirements of the Health Care Agency and with all ordinances and laws of the County of Orange and of the State of California pertaining to well construction, reconstruction and destruction, including the requirements to maintain the integrity of all significant confining zones.	
NAME OF DRILLING CO.		C-57 LICENSE NO.		
CITY	ZIP	TELEPHONE		
DIAGRAM OF WELL SITE (Use additional sheets and/or attachments)		APPLICANT'S SIGNATURE _____ DATE _____  PRINT NAME _____  PHONE NUMBER _____ FAX NUMBER _____		
<input type="checkbox"/> SITE PLAN ATTACHED		<b>DISPOSITION OF PERMIT (DO NOT FILL IN):</b>  <input type="checkbox"/> <b>APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:</b>  A. NOTIFY THIS AGENCY AT LEAST <b>48 HOURS</b>  <input type="checkbox"/> PRIOR TO START.  <input type="checkbox"/> PRIOR TO SEALING THE ANNULAR SPACE OR FILLING OF THE CONDUCTOR CASING.  B. <input type="checkbox"/> SUBMIT TO THE AGENCY WITHIN 30 DAYS AFTER COMPLETION OF WORK, A WELL COMPLETION REPORT AND/OR DRILLING LOGS. PLEASE REFERENCE PERMIT NO.  C. <input type="checkbox"/> SECURE ALL MONITORING WELLS TO PREVENT TAMPERING.  D. <input type="checkbox"/> OTHER _____  <input type="checkbox"/> <b>DENIED</b> _____  PERMIT ISSUED BY _____ DATE _____  PRINT NAME _____ PHONE NUMBER _____		
<b>FOR ACCOUNTING USE ONLY:</b>  HSO NO. _____ CHECK NO. _____  DATE _____ AMOUNT _____  INTL. _____				
<b>APPROVAL BY OTHER AGENCIES:</b>  JURISDICTION _____  REMARKS _____ _____ _____ _____				
AUTHORIZED SIGNATURE _____ DATE _____				
WHEN SIGNED BY ORANGE COUNTY HEALTH CARE AGENCY REPRESENTATIVE, THIS APPLICATION IS A PERMIT.				

WELL PERMIT NUMBER

WHEN SIGNED BY ORANGE COUNTY HEALTH CARE AGENCY REPRESENTATIVE, THIS APPLICATION IS A PERMIT.